



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

TESTIMONY PRESENTED BEFORE THE APPROPRIATIONS COMMITTEE

February 23, 2011

*Statement of Albert P. Lenge, Executive Director and General Counsel
State Elections Enforcement Commission*

Good Afternoon, Senator Harp, Representative Walker and distinguished members of the Appropriations Committee. Thank you for the opportunity to speak to the Committee today to present testimony concerning the Governor's budget proposal and its direct impact to the State Elections Enforcement Commission. With me today is David Barry the Commission's Fiscal Administrative Manager.

The prime mission of the State Elections Enforcement Commission is to ensure that Connecticut elections are held to the highest level of integrity. Elections are an essential governmental service. Prior elections demonstrate that this is not a function that is susceptible to privatization. For example, we do not want Diebold running elections. Consolidating the SEEC into an Office of Governmental Accountability, as recommended in the proposed budget (and in implementing SB 1009) would in my opinion significantly erode the ability of the SEEC to do its job by removing the SEEC's vital independence which goes to its core mission. I believe that all services that the SEEC provides to elected officials, including General Assembly candidates and the people of Connecticut, will be affected.

The consolidation plan will require the repeal of the budget approval process established in Public Act 04-204. This process passed by the General Assembly provided the three watchdog agencies with independence from reductions to their annual budgets. The current process rests the budgetary oversight of our agency with the General Assembly – where it belongs. Our agency's budget should not be controlled by one – even when that one is a Governor fighting a severe budget deficit. Our agency has addressed complaints filed against both of the last two Governors and, now under the Citizens' Election Program, it must be considered that the Governor is part of the SEEC's regulated community.

The consolidation impedes the agency's ability to perform in two ways: first, it requires the agency to bear a disproportionate amount of the reductions to be made. It results in exactly the kind of demolition through budget that Public Act 04-204 was meant to prevent; and secondly because the missions of the watchdog agencies are not compatible. We watch each other, as well as the rest of the Government. Watchdog agencies without that check on their power are ineffective and create paper tigers. Watchdog agencies operating under the budgetary control of a gubernatorial appointee, or any single elected official, are on a choke-chain. We will be prevented from accomplishing our mission in this way. Finally, the diversion of our staff to fulfill the mission of agencies that currently have no staff or funding makes it impossible for me to assure you that we can sustain this drain on our resources to meet current services. For example, arriving at the public campaign funding projections requires experienced staff to analyze what can be a very uncertain political campaign landscape. Our staff may be unable to perform functions because the resources of the elections commission have been diverted to another watchdog's needs by the

Executive Director of the new agency. This may compromise our ability to meet 4-day statutory deadlines to issue grants to candidates who have qualified and relied upon the availability of the Program. Were this to become the norm in Connecticut, the unqualified success of the Program would be eradicated and citizen confidence in Connecticut State governance may never recover.

The justification for eliminating 12 positions from the SEEC, Freedom of Information and the Ethics Commission is to combine "back office" operations while "preserving their separate missions." Right now, the three agencies have approximately 23% of staff in what rightfully could be considered "back office" positions, i.e. those which are administrative, budgetary, human resources or information technology related. In comparison, according to the Fiscal Accountability Report (11/15/10) back office expenditures for similar personnel for all state agencies is around 20%, which make the SEEC, FOI and Ethics current expenditures comparable to other state agency back office functions. Thus, the proposed consolidation will not result in substantial cost savings and will cause a loss of efficiency in the enforcement of the elections, ethics and freedom of information laws.

As the Committee considers what I have said about the affect of this budget proposal on our agency's ability to perform its core mission and on its ultimate cost to the people of Connecticut, I would also ask that the Committee consider whether this drastic approach to our agency is necessary. At present, the three watchdog agency's staffing complement consists of 90 positions and the Contracting Standards Board and Judicial Review Board had 6 positions allocated to them in 2011. As proposed, the Office of Governmental Accountability would be staffed by 78 employees, which represents a total staff reduction of 18 individuals or a percentage reduction of 19% from current staffing levels. Taken in context, the Office of Fiscal Analysis reports that the Governor's budget proposes to eliminate 69 positions through agency consolidations across the state, the 18 positions that the budget would remove from the proposed Office of Governmental Accountability places 26% of the burden of reduction in force on this newly created watchdog agency, whose staff make up only .2% of the state workforce. At the same time, the combined budgets of the agencies that would create the OGA represent only .06% of the state budget. Asking these small, oversight agencies to absorb more than a quarter of the statewide staffing cuts renders our "share" of the sacrifice exponentially greater than that of other agencies.

The proposed implementing legislation for OGA would combine all of the main functions of the SEEC, FOI and Ethics (along with Judicial Review and Contracting Standards) into three divisions. One division as I understand it would contain the lawyers of the three main agencies. While lawyers are trained in many facets of Connecticut law, the intricacies of elections law and campaign finance have stymied many. It is a section of the law that is extremely specialized; it is not similar to either FOI or Ethics law. It would be unusual for a single lawyer to have professional expertise in elections, open government and ethics law. Combining all of these functions into one division would dilute the effectiveness of law enforcement in these areas.

As the New York Times noted in 2003 when Governor Rowland proposed to roll just three agencies together for a savings of approximately 1.5 million: any cost savings will be eroded by a failure to enforce the law; the consolidated agency would have enormous power, and, worse, the consolidated agency "would give Connecticut voters the idea that a state watchdog agency was there to help them and watch

over government, when in fact it would not be able to function.” These observations are even truer today as we discuss rolling five agencies, rather than three, into one for a savings of approximately less than one million dollars.

In stark contrast to the hundreds of millions lost prior to the sweeping reform, is the money that can be saved when special interest influences are removed from the equation due to the campaign finance reform that our agency administers. Ironically, the only thing that stopped the drain was the passage of reforms in 2004 and in 2005 in response to earlier scandals – and my fear is that this budget proposal would in effect rescind prior reform.

The Citizens’ Election Program administered by this agency and the transparency and disclosure the agency provides saves money. And it not just my pride in this agency’s mission that makes me say this. Others agree. In a Hartford Courant editorial two years ago, a sitting legislator wrote about the influence of public financing on the consideration of expanding the bottle deposit. For years, he wrote, environmentalists tried to expand the bottle bill recycling program to include 5-cent deposits on plastic water bottles, but the powerful beverage industry and its paid lobbyists were able to stop every effort at reform because they gave thousands of dollars to legislators. In 2005, Connecticut Common Cause issued a case study outlining how lobbyists and their special interest clients had effectively sunk the Bottle Bill by making over \$700,000 in contributions to legislators’ candidate committees and political committees including leadership committees. In 2008, the first year that the Commission administered the Citizens’ Election Program—in which three-quarters of all legislators participated—the legislature passed an expansion of the bottle bill, which takes approximately \$25 million a year out of the pockets of the beverage industry and puts that money into the general fund where it belongs. Fundamental change is well under way and following the Governor Malloy’s budget address, a legislator commented on the waning influence of the cigarette lobby to prevent a cigarette tax increase, and noted that, because of the Citizens’ Election Program, the influence of lobbyists in the legislature was demonstrably reduced.

No one can possibly deny that we face unparalleled economic times in Connecticut. The Elections Enforcement Commission is doing its part.

During these austere times please consider that the Commission has suffered budget reductions and incredible sweeps to the Citizens’ Election Fund (“CEF”). For example, in fiscal year 2011, the CEF has been swept by \$27 million, and over the past three years a total of \$58.5 million has been swept from the CEF to mitigate the State’s budget deficit. **The Commission strenuously opposes Section 43 of House Bill 6380 which proposes to reduce the FY12 allotment to \$10.6 million which will affect the fund for each following year, since the allotments are calculated on the previous year’s deposit. By law, the Commission cannot successfully operate the Program without sufficient funds to cover grant payments. Another \$8 million reduction to our annual allotments beginning in 2012 and beyond will deliver a mortal blow to the program and we would not be able to recover in time for the 2014 elections. Without adequate assurances that the fund will be there candidates will not participate and instead will return to the days when PACs and other special interests financed their campaigns.**

Since I began as Executive Director in November 2009, I have sought to streamline efficiencies and have continued to look toward solutions that are fiscally responsive to these times. Under my leadership, I have already reduced my allotted management positions by twenty percent. However, it is important for me to state to the Committee that I am seeking to refill the position that was formerly held by Beth Rotman as Director of Public Campaign Financing, and to fill an upcoming vacancy to the Director of Campaign Disclosure and Audit Unit, since these positions are mission critical.

In closing, maintaining independence of the watchdog agencies and fully funding the state's public financing program represents an investment in the future of Connecticut and a commitment to returning democracy to the people. Particularly in hard economic times when difficult choices are at hand, it is imperative that such choices be made on an impartial basis and that the commitment to open, honest government remains protected and free from political influence. Indeed, independence, freedom from political pressure and adequate funding are the required foundation for strong watchdog agencies.

Thank you for your time and consideration of the Commission views. I am committed to working with you.